

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 3, 2014, 1:00 p.m., Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Cathy Beecham, Tracy Corr, Jeanelle Lust, Dennis Scheer, Michael Cornelius, Chris Hove, Ken Weber, Maja V. Harris and Lynn Sunderman; Marvin Krout, Steve Henrichsen, Christy Eichorn, Sara Hartzell, Jean Preister and Amy Huffman of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission meeting

Chair Jeanelle Lust called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Lust requested a motion approving the minutes for the regular meeting held August 20, 2014. Cornelius moved approval, seconded by Hove and carried 7-0: Beecham, Cornelius, Corr, Hove, Scheer, Weber and Lust voting 'yes' (Harris and Sunderman abstained).

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

**September 3, 2014**

Members present: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust.

The Consent Agenda consisted of the following items: **COMPREHENSIVE PLAN CONFORMANCE NO. 14018; SPECIAL PERMIT NO. 10004A; SPECIAL PERMIT NO. 14023; SPECIAL PERMIT NO. 05003A; COUNTY SPECIAL PERMIT NO. 05004A; and STREET & ALLEY VACATION NO. 14007.**

There were no ex parte communications disclosed.

Items No. 1.4a and 1.4b, City Special Permit No. 05003A and County Special Permit No. 05004A, were removed from the Consent Agenda and had separate public hearing.

Cornelius moved approval of the remaining Consent Agenda, seconded by Scheer and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust voting 'yes'.

Note: This is final action on Special Permit No. 10004A and Special Permit No. 14029, unless appealed to the City Council within 14 days.

**CITY SPECIAL PERMIT NO. 05003A**  
**and**  
**COUNTY SPECIAL PERMIT NO. 05004A,**  
**AMENDING THE MEADOW VIEW 2<sup>ND</sup> ADDITION**  
**COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 84<sup>TH</sup> STREET AND W. PIONEERS BOULEVARD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 3, 2014

Members present: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust.

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

These applications were removed from the Consent Agenda due to two letters of concern received by the Commission.

Staff presentation: **Sara Hartzell of Planning staff** explained these two applications cover the same area which is in split jurisdiction between the City and County. There is already an approved CUP special permit for 57 dwelling units. This request does not change the number of dwelling units. Although in split jurisdiction, the CUP does show build-through in the entire area, and three to four sublots were shown on the original CUP for build-through at a later date. Those areas averaged around 80' wide by 120' deep, but the owner felt that for an acreage type development, people might want more room to build their homes.

The developer has worked with staff to come up with this new proposed plan for a ½ acre lot, as opposed to one acre, leaving the areas in between as an outlot to provide green space. This would allow the area shown for future subdivision to be subdivided by the owner of the property a little bit more easily if transferred by the developer. The staff is very supportive of this proposal.

The other piece of this proposal is changing the roads from private to public. The subdivision to the north has paved public roads. These private roads would be paved with concrete rather than asphalt. We do not want a private road running into public road or vice versa because it is difficult for the homeowners association to maintain and there is the additional challenge of school buses not entering private roadways.

There are also some minor changes to street grades to accommodate this new layout.

With regard to the letters of concern, Hartzell noted that the main concern was water. There is a groundwater study that was done with the original application in 2005, which at that time took into account the development in the area, including the development to the north, Meadow View, that was platted with 29 wells at that time, as well as the development immediately to the east. There has not been any other major development in the area or irrigation wells that would significantly impact the water. This application does not request any additional units. Thus, the Health Department determined that the 2005 study was sufficient to support this application at this time.

Hartzell also explained that Meadow View to the north has public roads; however, the maintenance has not yet been transferred to the County Engineer. There must be at least 6 dwelling units on the roadway and at least 70% built-out, before the maintenance can be transferred to the County Engineer, which this development does now meet. Then the County Engineer, upon request, checks the condition of the roadways and anything that needs to be brought up to standards; provides a memo of actions to be taken; and the homeowners association or developer is then responsible for taking on those actions and then the County takes over the maintenance.

Beecham inquired how frequently water studies are updated. Hartzell explained that the staff would not request a water study on an existing subdivision. The only time a new water study would be required is when there is an increase in density and a request from AG to AGR zoning. It is based on a change in density.

Lust confirmed that the outlots will not disappear upon further subdivision. Hartzell explained that when the area would be annexed into the City and served by City services, the outlots could be subdivided into more suburban style lots, and at that time would have the City services. However, this area is currently limited as far as the amount of land needed for sewers, wells, etc. They will remain as outlots unless the area is annexed by the City.

Beecham referred to the letter of concern which talked about it being necessary to close one of their wells for water conservation. Hartzell was not aware of that action.

### Proponents

**1. Marcia Kinning of ESP Engineering**, appeared on behalf of the applicant to answer any questions. With regard to the water issue, she pointed out that the lots now being proposed are half the size of what they were in the original approved CUP, so that will reduce the amount of water that is going to be needed for yard maintenance, etc.

Opposition

**1. Marv Morrison**, 3233 S.W. 80<sup>th</sup> Circle, stated that he was not necessarily in opposition but has some questions. Up until a month ago, he was on the board of the homeowners association and prior to that, he was President for about 5 years, so he is familiar with some of the problems and issues. At the present time, there are 61 houses pumping water from the original and first additions of Meadow View. The concerns of the existing homeowners have to do with the amount of traffic on S.W. 77<sup>th</sup> Street, which goes to a dead-end. The homeowners association had to replace the barricades at a cost of \$350.00, and Morrison stated that he will make sure the barricades are used in this development.

The concrete rather than blacktop is a good idea. He has lived there since 2004 and he knows that there have been lots of issues with the blacktop, and he was told that a lot of things fell through the cracks when the developer got caught up in the bad economy. S.W. 77<sup>th</sup>, 78<sup>th</sup> and 80<sup>th</sup> have had many, many dips and erosion. When they first started the grading for Meadow View 1<sup>st</sup>, they neglected to do a lot of erosion prevention so there have been issues. He has talked to the County several times and they have done a good job of patching and have addressed repairs on an individual basis.

The neighbors are concerned about S.W. 77<sup>th</sup> Street between Walin Lane and the dead-end because there are maybe a dozen kids within those two blocks, so they are concerned about the eventual high traffic volume with no outlet other than S.W. 77<sup>th</sup> Street.

The neighbors are also concerned about the lagoons. There are two lagoons, one at the very south end of S.W. 80<sup>th</sup> Circle, which serves S.W. 80<sup>th</sup> Street. The second lagoon, referred to as 78<sup>th</sup> & West Pioneers, serves Meadow View 1<sup>st</sup> from Van Dorn clear to Pioneers (one mile). That lagoon takes up approximately 13-15 acres. One of the board members of the homeowners association who is an engineer licensed to oversee the conditions of the lagoons, found that the 78<sup>th</sup> & West Pioneers lagoon was low and there is water running in from the well. The water is free but the electricity to run the pump is expensive. He did not know who will pay for that. The homeowners association contends that Meadow View Original and Meadow View 1<sup>st</sup> should have been put into the lagoon at the end of S.W. 80<sup>th</sup>, but that is governed by NDEQ.

In summary, Morrison stated that the neighbors want to make sure there is plenty of water and that the lagoons are up and running. They are concerned about the amount of water usage, traffic and the access roads.

Staff questions

In response to Morrison's testimony, Hartzell acknowledged that S.W. 77<sup>th</sup> Street is a dead-end at this time and would be the access at the onset of this development to serve the northern lots which are planned to final plat first. There is a standard that no more than 40

dwelling units would be served off of a dead-end. The roadway would have to be built at such time as there are more than 40 dwelling units and there would be a secondary access at that time as well. The other dead-ends are temporary until the land to the east develops. Because Pioneers is gravel, it was listed as a possible future connection if the city develops further. That was not anticipated to be built at the time of the original acreage subdivision.

With regard to the lagoons, Meadow View was originally to be served by the lagoon, which was not able to serve that subdivision and they had to add more capacity. A cell was built along Pioneers and there is an easement for sewer line that serves a portion of the development. This cell would also serve these lots. The size of the cell will depend on the number of connections added to it.

Hartzell suggested that additional houses will help address some of the difficulty with keeping the lagoons at their full level.

There was no further response by the applicant.

**CITY SPECIAL PERMIT NO. 05003A**  
**ACTION BY PLANNING COMMISSION:**

September 3, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Harris.

Lust commented that she understands the neighbors' concerns about traffic patterns and water usage in the area, but this is actually an already approved development and all they are doing is replatting to add some outlots to the area that will be beneficial to water usage. She believes that the future build-out of the roadway is very well planned, and as it develops, it will probably help eliminate traffic problems in the area.

Motion for conditional approval carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust voting 'yes'. This is final action, unless appealed to the City Council within 14 days.

**COUNTY SPECIAL PERMIT NO. 05004A**  
**ACTION BY PLANNING COMMISSION:**

September 3, 2014

Scheer moved to approve the staff recommendation of conditional approval, seconded by Beecham and carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust voting 'yes'. This is final action, unless appealed to the Lancaster County Board of Commissioners within 14 days.

**PRE-EXISTING USE PERMIT NO. 3AD**  
**TO WAIVE THE PROVISIONS OF THE SIGN ORDINANCE**  
**TO ALLOW BANNER SIGNS IN THE PARKING LOT,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**GATEWAY SHOPPING MALL AT**  
**SOUTH 66<sup>TH</sup> STREET AND O STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 3, 2014

Members present: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust.

Staff recommendation: Conditional approval.

There were no ex parte communications disclosed.

Staff presentation: **Christy Eichorn of Planning staff** presented the proposal which is specific in regard to signage at Gateway Mall generally located at Street 66th Street and O Street. Gateway is a pre-existing use permit, which means there was a development on the site prior to the 1979 zoning ordinance update, thus deemed to have a use permit when zoned B-5 back in 1979.

Gateway is a very, very large use permit that has had many changes over the years. This application is for one small change to a very small portion of the overall site plan of that pre-existing use permit.

Eichorn explained that use permits allow the Planning Commission and the City Council to make some adjustments to signs because we can show them specifically and approve them specifically on site plans associated with use permits or special permits. In this case, we are talking specifically about banner signs, which are cloth-like instruments that have to be attached to a building and which are considered temporary in nature under the code today. Fortunately, the applicant has come to the city to do some banner signs in the south parking lot to add some visual interest to the parking lot. Because these signs can be seen from the street is why they are considered signs. If they were on the light poles, they would not be considered signs. The applicant intends to use these banner-type features in the parking lot with the tenants' names on the banners. The banners would be attached to light poles.

Eichorn further explained that this amendment to the pre-existing use permit proposes to treat these signs in a similar fashion to a free-standing sign, which is a permanent sign you see out in front of a building either on a pole or with some brick foundation, and which can be 50 to 100 square feet in size, and required to be placed at least 50' apart. The applicant is proposing 11 of these signs to be attached to light poles within the south parking lot. The signs would be more than 50 feet apart; the banner signs are almost all internal to the center in that there is a significant amount of landscaping that comes around

the parking lot and a lot of the landscaping actually obscures some of the banner signs from the street.

Because there is not currently a provision to address this type of signage on private property in the sign ordinance, the applicant has come forward and wants to try this and the staff wants to help. These signs would be allowed as free-standing signs requiring a sign permit through the Building & Safety Department. Building & Safety will check to make sure the signs are safe. The signs would have a two-year life span. After two years, there is an opportunity for the City to determine whether this was a good or bad thing and whether it should be included in the sign chapter of the zoning ordinance.

Eichorn pointed out that there are other conditions in the staff report requiring that the signs be changed out after three or four months because they are made of cloth and the elements will take their toll. They must be kept looking fresh for aesthetics of the community and for the tenants.

Cornelius suggested hypothetically, that if the parking lot were located well below the street level with retaining walls so the signs were not visible from the street, we would not be having this conversation. Eichorn agreed.

### Proponents

**1. Chad Becwar**, 7405 N. 15<sup>th</sup> Street, testified as the applicant. The real reason for this request is two-fold. Gateway is the only enclosed mall within a 60-mile radius of Lincoln, and the competitive landscapes have changed quite a bit. With an interior mall, you do not know what is inside the mall. Gateway is bringing in some new retail and they want people to come into town from the rural market and actually see what's going on in Lincoln. There is currently a lot of pre-planning going on for some development in Gateway and they would like to implement this signage with some of that planning as well. The banners will change the landscape on the south side. This is a great opportunity to change the aesthetics of the mall.

Becwar also acknowledged that this is a test. If it does not work well in two years, the applicant will understand. It is a competitive approach. It gives the retailers a great opportunity to shop their name to the community and anyone coming into the community.

Hove inquired whether the signs will be rented to the retailers. Becwar responded that this is a marketing campaign. The signs will not be rented to the tenants. They will focus on the top 25 tenants to get those names out there so that people understand what is inside the mall. This is not an attempt to gain revenue. It is strictly to attract people to the mall. It is part of a bigger picture of marketing that Gateway is going to do in Lincoln.

There was no testimony in opposition.

Staff questions

Beecham noted that the information talks about the banner hardware being attached to light poles. What is the plan if this does not work? Is there something that would require that the light poles be put back to the original condition? Eichorn responded that they will have to take out sign permits. She was not sure what all is entailed in that permit, but generally a sign with footings and hardware is required to be removed when the sign is no longer in use. After two years, unless they come in and request to make it a permanent fixture, the hardware would have to come down as well as the signs.

Lust wondered whether the applicant could put green, yellow and red signs with no words in this parking lot at the present time without a sign permit. Eichorn stated that they could not put up color flags that flapped in the wind. If there were no language on these banners, then it gets to that level where it is difficult to interpret what is a sign and what is not a sign. She commended the applicant for coming to the city rather than erecting something illegal.

Harris inquired about the review process after the two years have passed. Eichorn explained that after two years, the responsibility for checking on this particular signage is going to fall on the applicant and the Planning and Building & Safety Departments. The City would either send the applicant a letter to remove the signs, or the staff would need to work with the applicant to amend the permit to make them permanent.

There was no further response by the applicant.

**ACTION BY PLANNING COMMISSION:**

September 3, 2014

Hove moved to approve the staff recommendation of conditional approval, seconded by Weber.

Cornelius stated that he is comforted by the sunset that is built into this, giving us time to see how it works and review it. It can be put aside or we can incorporate it into the code if it turns out well. This is a chance to test something that was unforeseen and he will support it.

Lust commented that she is always a little hesitant when there is something outside of the sign code because a lot of work went into the current sign code, but this seems like a great thing to articulate the parking lot and attract businesses and it does not seem obtrusive in any way.

Motion for conditional approval carried 9-0: Beecham, Cornelius, Corr, Harris, Hove, Scheer, Sunderman, Weber and Lust voting 'yes'. This is a recommendation to the City Council.



There being no further business, the meeting was adjourned at 1:45 p.m.

Please note that these minutes will not be formally approved by the Planning Commission until the regular meeting on September 17, 2014.

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